

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>DON THOMASON,</b>	:	<b>CASE NO. 1:17-CV-526</b>
<b>Plaintiff,</b>	:	<b>JUDGE TIMOTHY S. BLACK</b>
<b>v.</b>	:	<b><u>ANSWER OF DEFENDANT, CINCINNATI</u></b>
<b>CINCINNATI CHRISTIAN UNIVERSITY,</b>	:	<b><u>CHRISTIAN UNIVERSITY</u></b>
<b>Defendant.</b>	:	<b><u>JURY DEMAND ENDORSED HEREON</u></b>
	:	

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Comes now Defendant, Cincinnati Christian University (hereinafter "Defendant"), and for its answer to Plaintiff's Complaint, states as follows:

1. Defendant denies the allegations contained in paragraph 1 of Plaintiff's Complaint for want of knowledge.

2. For its response to the allegations contained in paragraph 2 of Plaintiff's Complaint, Defendant admits that Cincinnati Christian University is an accredited private Christian University located in Cincinnati, Ohio. Defendant denies the remaining allegations contained in paragraph 2 of Plaintiff's Complaint.

3. For its response to the allegations contained in paragraph 3 of Plaintiff's Complaint, Defendant does not contest jurisdiction of this Court over this action and. Defendant denies the remaining allegations contained in paragraph 3 of Plaintiff's Complaint.

4. For its response to the allegations contained in paragraph 4 of Plaintiff's Complaint, Defendant does not contest jurisdiction of this Court over this action and. Defendant denies the remaining allegations contained in paragraph 4 of Plaintiff's

Complaint.

5. For its response to the allegations contained in paragraph 5 of Plaintiff's Complaint, Defendant does not contest jurisdiction of this Court over this action and. Defendant denies the remaining allegations contained in paragraph 5 of Plaintiff's Complaint.

6. For its response to paragraph 6 of Plaintiff's Complaint, Defendant does not contest venue in this jurisdiction. Defendant states that Plaintiff was an employee of Defendant. Defendant denies the remaining allegations contained in paragraph 6 of Plaintiff's Complaint.

7. For its response to paragraph 7 of Plaintiff's Complaint, Defendant admits that Plaintiff was terminated on or around October 23, 2015. Defendant further admits that Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission. Defendant denies the remaining allegations contained in paragraph 7 of Plaintiff's Complaint.

8. Defendant denies the allegations contained in paragraph 8 of Plaintiff's Complaint for want of knowledge.

9. Defendant admits the allegations contained in paragraph 9 of Plaintiff's Complaint.

10. Defendant denies the allegations contained in paragraph 10 of Plaintiff's Complaint for want of knowledge.

11. Defendant denies the allegations contained in paragraph 11 of Plaintiff's Complaint for want of knowledge.

12. Defendant denies the allegations contained in paragraph 12 of Plaintiff's

Complaint.

13. For its response to paragraph 13 of Plaintiff's Complaint, Defendant admits that Plaintiff began working for Defendant in or around 1993 and held the position of University Registrar. Defendant denies the remaining allegations contained in paragraph 13 of Plaintiff's Complaint.

14. Defendant denies the allegations contained in paragraph 14 of Plaintiff's Complaint.

15. Defendant denies the allegations contained in paragraph 15 of Plaintiff's Complaint for want of knowledge.

16. Defendant denies the allegations contained in paragraph 16 of Plaintiff's Complaint for want of knowledge.

17. For its response to paragraph 17 of Plaintiff's Complaint, Defendant admits that Tom Thatcher was Chief Academic Officer at CCU. Defendant further admits that Mr. Thatcher indicated Plaintiff could set his own schedule regarding time with his daughter. Defendant denies the remaining allegations contained in paragraph 17 of Plaintiff's Complaint.

18. For its response to paragraph 18 of Plaintiff's Complaint, Defendant admits that around May to around December, 2013, Plaintiff took leave from his employment at Defendant. Defendant denies the remaining allegations contained in paragraph 18 of Plaintiff's Complaint.

19. Defendant denies the allegations contained in paragraph 19 of Plaintiff's Complaint for want of knowledge.

20. For its response to paragraph 20 of Plaintiff's Complaint, Defendant

admits that Plaintiff worked full-time in 2014. Defendant denies the remaining allegations contained in paragraph 20 of Plaintiff's Complaint.

21. Defendant denies the allegations contained in paragraph 21 of Plaintiff's Complaint for want of knowledge.

22. Defendant denies the allegations contained in paragraph 22 of Plaintiff's Complaint for want of knowledge.

23. For its response to paragraph 23 of Plaintiff's Complaint, Defendant admits that Defendant provided Plaintiff with FMLA leave. Defendant denies the remaining allegations contained in paragraph 23 of Plaintiff's Complaint for want of knowledge.

24. Defendant denies the allegations contained in paragraph 24 of Plaintiff's Complaint.

25. For its response to paragraph 25 of Plaintiff's Complaint, Defendant states that Plaintiff's performance evaluation speaks for itself and, therefore, the remaining allegations contained in paragraph 25 of Plaintiff's Complaint are denied.

26. For its response to paragraph 26 of Plaintiff's Complaint, Defendant admits that in or around August, 2014, an Assistant Registrar ceased employment for Defendant. Defendant further admits that a new software module was being developed. Defendant denies the remaining allegations contained in paragraph 26 of Plaintiff's Complaint.

27. Defendant denies the allegations contained in paragraph 27 of Plaintiff's Complaint.

28. Defendant denies the allegations contained in paragraph 28 of Plaintiff's

Complaint.

29. For its answer to paragraph 29 of Plaintiff's Complaint, Defendant states that Ms. Derico was compensated at a higher level than Plaintiff. Defendant denies the remaining allegations contained in paragraph 29 of Plaintiff's Complaint.

30. Defendant denies the allegations contained in paragraph 30 of Plaintiff's Complaint for want of knowledge.

31. For its response to paragraph 31 of Plaintiff's Complaint, Defendant admits that Ms. Derico was less than 40 years old. Defendant denies the remaining allegations contained in paragraph 31 for want of knowledge.

32. Defendant denies the allegations contained in paragraph 32 of Plaintiff's Complaint.

33. Defendant denies the allegations contained in paragraph 33 of Plaintiff's Complaint.

34. Defendant denies the allegations contained in paragraph 34 of Plaintiff's Complaint.

35. Defendant denies the allegations contained in paragraph 35 of Plaintiff's Complaint.

36. Defendant denies the allegations contained in paragraph 36 of Plaintiff's Complaint.

37. Defendant denies the allegations contained in paragraph 37 of Plaintiff's Complaint.

38. Defendant denies the allegations contained in paragraph 38 of Plaintiff's Complaint.

39. Defendant denies the allegations contained in paragraph 39 of Plaintiff's Complaint.

**COUNT I**

**(Age Discrimination – ADEA)**

40. Defendant reincorporates the prior paragraphs of this pleading as if fully restated herein.

41. Defendant denies the allegations contained in paragraph 41 of Plaintiff's Complaint for want of knowledge.

42. Defendant denies the allegations contained in paragraph 42 of Plaintiff's Complaint.

43. Defendant denies the allegations contained in paragraph 43 of Plaintiff's Complaint.

44. Defendant denies the allegations contained in paragraph 44 of Plaintiff's Complaint.

45. Defendant denies the allegations contained in paragraph 45 of Plaintiff's Complaint.

**COUNT II**

**(Age Discrimination – R.C. Chapter 4112)**

46. Defendant reincorporates the prior paragraphs of this pleading as if fully restated herein.

47. Defendant denies the allegations contained in paragraph 47 of Plaintiff's Complaint.

48. Defendant denies the allegations contained in paragraph 48 of Plaintiff's

Complaint for want of knowledge.

49. Defendant denies the allegations contained in paragraph 49 of Plaintiff's Complaint.

50. Defendant denies the allegations contained in paragraph 50 of Plaintiff's Complaint.

51. Defendant denies the allegations contained in paragraph 51 of Plaintiff's Complaint.

### **COUNT III**

#### **(Disability Discrimination – ADAAA)**

52. Defendant reincorporates the prior paragraphs of this pleading as if fully restated herein.

53. Defendant denies the allegations contained in paragraph 53 of Plaintiff's Complaint.

54. Defendant denies the allegations contained in paragraph 54 of Plaintiff's Complaint.

55. Defendant denies the allegations contained in paragraph 55 of Plaintiff's Complaint.

56. Defendant denies the allegations contained in paragraph 56 of Plaintiff's Complaint.

57. Defendant denies the allegations contained in paragraph 57 of Plaintiff's Complaint.

**COUNT IV**

**(Disability Discrimination – R.C. Chapter 4112)**

58. Defendant reincorporates the prior paragraphs of this pleading as if fully restated herein.

59. Defendant denies the allegations contained in paragraph 59 of Plaintiff's Complaint.

60. Defendant denies the allegations contained in paragraph 60 of Plaintiff's Complaint.

61. Defendant denies the allegations contained in paragraph 61 of Plaintiff's Complaint.

62. Defendant denies the allegations contained in paragraph 62 of Plaintiff's Complaint.

63. Defendant denies the allegations contained in paragraph 63 of Plaintiff's Complaint.

**COUNT V**

**(Gender Discrimination – Title VII)**

64. Defendant reincorporates the prior paragraphs of this pleading as if fully restated herein.

65. Defendant denies the allegations contained in paragraph 65 of Plaintiff's Complaint.

66. Defendant denies the allegations contained in paragraph 66 of Plaintiff's Complaint.

67. Defendant denies the allegations contained in paragraph 67 of Plaintiff's



Complaint.

68. Defendant denies the allegations contained in paragraph 68 of Plaintiff's

Complaint.

**COUNT VI**

**(Gender Discrimination – R.C. Chapter 4112)**

69. Defendant reincorporates the prior paragraphs of this pleading as if fully restated herein.

70. Defendant denies the allegations contained in paragraph 70 of Plaintiff's Complaint.

71. Defendant denies the allegations contained in paragraph 71 of Plaintiff's Complaint.

72. Defendant denies the allegations contained in paragraph 72 of Plaintiff's Complaint.

73. Defendant denies the allegations contained in paragraph 73 of Plaintiff's Complaint.

**COUNT VII**

**(Retaliation – FMLA)**

74. Defendant reincorporates the prior paragraphs of this pleading as if fully restated herein.

75. Defendant denies the allegations contained in paragraph 75 of Plaintiff's Complaint.

76. Defendant denies the allegations contained in paragraph 76 of Plaintiff's Complaint.

77. Defendant denies the allegations contained in paragraph 77 of Plaintiff's Complaint.

78. Defendant denies the allegations contained in paragraph 78 of Plaintiff's Complaint.

79. Defendant denies the allegations contained in paragraph 79 of Plaintiff's Complaint.

### **COUNT VIII**

#### **(Interference – FMLA)**

80. Defendant reincorporates the prior paragraphs of this pleading as if fully restated herein.

81. Defendant denies the allegations contained in paragraph 81 of Plaintiff's Complaint.

82. Defendant denies the allegations contained in paragraph 82 of Plaintiff's Complaint.

83. Defendant denies the allegations contained in paragraph 83 of Plaintiff's Complaint.

84. Defendant denies the allegations contained in paragraph 84 of Plaintiff's Complaint.

85. Defendant denies the allegations contained in paragraph 85 of Plaintiff's Complaint.

86. Anything not specifically admitted to be true is denied.

## **AFFIRMATIVE DEFENSES**

### **FIRST DEFENSE**

1. For its first defense, Defendant states that Plaintiff's Complaint fails to state a claim upon which relief can be granted.

### **SECOND DEFENSE**

2. For its second and further defense, Defendant states that Plaintiff's claims are barred by the doctrines of waiver, estoppel, acquiescence, and ratification.

### **THIRD DEFENSE**

3. For its third and further defense, Defendant states that Plaintiff has failed to mitigate his damages, if any, thereby barring recovery.

### **FOURTH DEFENSE**

4. For its fourth and further defense, Defendant asserts that any and all actions taken and decisions made by Defendant were reasonable, in good faith, and based on legitimate, non-discriminatory business reasons.

### **FIFTH DEFENSE**

5. For its fifth and further defense, Defendant states that it has not violated any of Plaintiff's rights, and to the contrary, Defendants at all times treated Plaintiff in accordance with the law of the State of Ohio and Federal law.

### **SIXTH DEFENSE**

6. For its sixth and further defense, Defendant states that Plaintiff's claims are barred by the unclean hands of Plaintiff and by the doctrine of *en pari delicto*.

### **SEVENTH DEFENSE**

7. For its seventh and further defense, Defendant asserts that Plaintiff's discipline was the result of Plaintiff's own improper conduct and actions and failure to satisfactorily meet or perform the responsibilities or obligations of Plaintiff's job with his employer.

### **EIGHTH DEFENSE**

8. For its eighth and further defense, Defendant asserts that Plaintiff's claims for punitive damages are brought: (1) in violation of the procedural and substantive due process guarantees afforded by Article I, Section 16 of the Constitution of the State of Ohio, and the Fourteenth Amendment of the Constitution of the United States; (2) in violation of the guarantees against the taking of property without adequate compensation therefor in Article I, Section 19 of the Constitution of the State of Ohio, and the Fourteenth Amendment of the Constitution of the United States; (3) in violation of the guarantees of equal protection under the laws afforded by Article I, Section 2 of the Constitution of the State of Ohio, and the Fourteenth Amendment of the Constitution of the United States; and (4) in violation of the guarantees against undue burdens upon commerce in violation of Article I, Section 8 of the Constitution of the United States.

### **NINTH DEFENSE**

9. For its ninth and further defense, Defendant states that any personnel action complained of was the result of prohibited discrimination, and further denies that any representation that was made from which Plaintiff was reasonable relied upon was to his own detriment.

**TENTH DEFENSE**

10. For its tenth and further defense, Defendant states that Plaintiff's claims are barred by the applicable statute of limitations or limitations period.

WHEREFORE, having fully answered, Defendant prays that the Complaint herein be dismissed and that Plaintiff take nothing thereby.

Respectfully submitted,

RENDIGS, FRY, KIELY & DENNIS, LLP

*/s/ Felix J. Gora*

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*Attorney for Defendant CINCINNATI  
CHRISTIAN UNIVERSITY*

**JURY DEMAND**

Defendant hereby demands a trial by jury of all issues contained herein.

*/s/ Felix J. Gora*

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Felix J. Gora (0009970)

**CERTIFICATE OF SERVICE**

I hereby certify that on October 13, 2017, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Felix J. Gora

Felix J. Gora (0009970)